

Rules of the Springfield Zoning Board of Appeals

1 MEMBERS

The Springfield Zoning Board of Appeals is a (05) five-member board. There are (02) two alternate members who may participate if a member is absent, unable to act, or has a conflict of interest.

2 QUORUM

A quorum of the Board is necessary to conduct a public hearing, (04) four members.

3 OPEN MEETING LAW

The open meeting law requires that hearings and meetings must be held in public. Neither petitioners nor their representatives should contact individual Board Members about any pending or future matter to be heard by the ZBA. All questions should be directed to the ZBA's secretary who will consult with board members as needed. The open meeting law does not apply to visits to a site, which are routinely made by the individual members prior to a hearing.

4 SCHEDULING

The ZBA meets once per month and considers up to three matters or up to the secretary's discretion (excluding continuances) per hearing. Hearings are scheduled on a first come basis. Special requests for a hearing date may be granted, in the Board's discretion, only for extraordinary circumstances. Unless otherwise specified at the hearing, a hearing or vote that is continued will take place at the next regularly scheduled hearing.

5 SUBMISSIONS

❖ FORMS

All petitions to the ZBA shall be made on forms supplied by the ZBA office filed in (11) eleven copies.

❖ PLANS

All plans shall be drawn to scale, show all dimensions, and be clearly labeled. A site plan is required for any request affecting the dimensions of a structure or a parcel of land. A building plan is also required of any zoning or building code variance request relative to the structure itself, such as an addition. When applicable, plans shall include existing and proposed conditions.

❖ MISC.

Any additional information and submissions offered at the hearing shall, wherever feasible, be provided in (11) eleven copies, one for each of the eleven petition copies. No information will be accepted after the close of the public hearing, except with leave of, or by specific request of the Board. All forms and submissions become the property of the ZBA.

Whenever case law, statutes or regulations, (except the Zoning Ordinance), are cited to the Board, a copy of the decision or law, along with an explanation of its relevance shall be provided to the Board. In all cases of appeal, each side is expected to provide the other side with copies of all submissions to the Board.

6 PAYMENT OF FEES

Payment of all costs for filing, advertising and notice are a prerequisite to a hearing and vote. The fees are **NON REFUNDABLE**, whatever the disposition of the matter, including withdrawals of petitions with or without prejudice.

Payment of local taxes, fees and assessments, betterments and other municipal charges are a prerequisite to a hearing and vote for requests of Zoning & Building Code Variances.

7 NOTICE AND ADVERTISING

The ZBA secretary shall provide the notices to abutters, the legal notice in the newspaper and to various others as may be required. Interested parties may request specific information to determine for themselves compliance with applicable legal requirements. Neighborhood Councils and Associations may also receive any notices of matters that are within their respective jurisdictions.

8 PUBLIC HEARING

Attendance is required by the petitioner even if represented by an attorney or other agent. If the petitioner is a corporation or an organization, an authorized and knowledgeable representative should be present to answer any questions. Failure by a petitioner to attend a scheduled hearing may result in a denial of the relief sought.

Anyone addressing the Board shall be obligated to provide true and complete information. At its discretion, the Board may administer an oath to any person testifying at a hearing.

Persons addressing the Board shall provide their names, addresses and, if relevant, their title of affiliation.

Conduct of the Hearing: The chairman or acting chair commences the hearing. The petitioner or agent to the petitioner, or other representative presents the case. **The presenter is expected to have a complete knowledge of the facts of their case, familiarity with the zoning provisions relevant to their case, and a concise argument for the relief being sought.** For zoning variance requests, the presentation must include the three findings that the ZBA is required to make. Substantiation of all assertions is required. **FOR EXAMPLE, the mere assertion in a variance request that a hardship will be experienced is insufficient.**

After the presentation, any member of the public who wishes to speak in opposition may step up to the podium and do so. The petitioner or agent will be given an opportunity for rebuttal or to supply additional information. The board members may ask questions at any time. The Board may require any person who is unruly or disruptive to leave the hearing room. The formal rules of evidence do not apply, but may serve as guides in the evaluation of evidence and testimony. Hearings are recorded and then transcribed.

The Board may receive, but is not bound by, advice and recommendations from other city departments, boards, and officials, including but not limited to, the Planning Department.

Vote:

The Board may vote at the hearing or may close the hearing and defer its decision until a subsequent meeting date. A variance may be granted by concurring vote of at least 4 of the 5 members (unanimous if only four members are participating).

Continuances:

The Board, in its discretion, may also decide by majority vote to continue a hearing on its own initiative or by request of a petitioner.

The Board may allow, by majority vote, minor changes or amendments to a petitioner's request, provided the Board finds that the change or amendment is a typographical error or a change otherwise insignificant or insubstantial that does not prejudice the public, abutters, or the city in any way.

9 DECISION

A decision by the ZBA must be rendered at a public hearing. The decision is not written in public, but the substance of the decision, and any conditions, are made known at the public hearing. A petitioner may offer to write the decision in draft form, but the board will always undertake an independent analysis. Once a decision is written in accordance with the vote at the meeting, the Board members sign it.

10 REQUIRED FINDINGS FOR A ZONING VARIANCE

(YOU MAY FIND THE INTERPRETATIONS TO THESE CONDITIONS AT ANY LEGAL LIBRARY OR YOU MAY CONSULT WITH A LEGAL ADVISORY)

YOU MUST SATISFY ALL THREE CONDITIONS BELOW.

In order to grant a variance from the Zoning Ordinance, the Board must specifically find that:

A. that owing to circumstances relating to the soil conditions, shape, or topography of land or structure, and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the zoning ordinance or bylaw would involve either substantial hardship, financial or otherwise to the petitioner.

B. that desirable relief may be granted without substantial detriment to the public good.

C. that granting such relief would not nullify nor substantially derogate from the intent or purpose of such ordinance or by-law.

Variances may be granted subject to conditions, safeguards, and limitations both of time, and of use, including the continued existence of any particular structures, but may not be based on the continued ownership of the land or structures by any owner.

Neither the ZBA Clerk nor Board Members shall give legal or strategic advice to petitioners or others.

They must seek their own legal advice. For a particular hearing or hearings, the Board may wave any of its rules, at its own discretion, by specific request based on extraordinary circumstances, or on its own initiative.

The Board may amend these rules, from time to time, in whole or in part, at a public hearing for which advertisement of legal notice has been made at least (2) two weeks prior to the hearing date.

These rules shall be filed with the City Clerk's Office. Copies will be available in the Building Division of the Code Enforcement, 70 Tapley Street, Springfield, MA 01104.

The effective date of these rules is July 1, 2012.

Required Information for Filing a Zoning Variance;

There are three (03) ways to go before the Board of Appeals. You must have ten (10) copies of each piece of information you are submitting in your package. Each package must be separate and stapled before given to the ZBA Secretary.

- PETITION (letter addressed to the Chairman) with a full detailed explanation on why you wish to go before the Board of Appeals. Include in this petition what you propose to do, what the violation is and the hardship which is created.
- LETTER OF REFUSAL—Petitioner has thirty (30) days from date of the order or decision to appeal to the Board.
- LETTER OF CORRECTION OR VIOLATION—Petitioner has 30 days from date of the order or decision to appeal to the Board.

Information that must be included in your package is as follows:

- ✓ 11 complete set of plans
- ✓ 11 site plans
- ✓ 11 letters to the Chairman. (1 must be original signature)
- ✓ 11 letters to the City Clerk (1 must be original signature) you may use the same letter to the Chairman, just change the name to whom you are sending it to.
- ✓ 11 copies of the attached Zoning Variance Application. (photo copies are acceptable, however, **each application must have an original signature**). Applications can be signed by the applicant, or by their attorney or by power of attorney.
- ✓ **Filing Fee is \$500.00 for both Residential Property and Commercial Property, Payable City of Springfield by Check or Money Order.**

THIS FEE IS NON-REFUNDABLE

There is also an additional cost for legal advertisement. You will be notified as soon as the ad has been placed to submit a check made payable to "The Republican", but you will send, or bring the check to the Board secretary. The check must be sent in to the secretary at least one (1) week prior to the hearing.

11 GENERAL INFORMATION

A variance takes up to four (04) months to complete. If a variance is granted, and no appeals are filed, you must then also pay a fee to record the Notice of Decision and Decision of the Board of Appeals at the Registry of Deeds Office, located at 50 State Street, 4th floor, Springfield, MA 01103.

If a permit is required from the Building Department, an application must be filed and a permit fee paid upon completion of the variance process.

If you have any questions, please contact Zoning Board of Appeals, 413-750-2434 or 413-787-6031, between the hours of 8:15am to 3:15pm.

When filling out your application, and you reach question #8, on those lines it will say SEE ATTACHED.

On a separate piece of paper it should look like this:
 You will use the same letter format for your letter to;
 Wayman Lee, City Clerk
 Attorney Brenda Doherty, Chairperson
 Board of Appeals

Dear Chairman (use name):

Dear City Clerk (use name):

#8 the principal reasons upon which I base my application are as follows:

A. Owing to circumstances relating to the soil conditions, shape, or topography of land or structure and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the zoning ordinance or bylaw would involve either substantial hardship, financial or otherwise to the petitioner.

Be as specific and detailed as possible

B. that desirable relief may be granted without substantial detriment to the public good.

Be as specific and detailed as possible

C. that granting such relief would not nullify nor substantially derogate from the intent or purpose of such ordinance or by-law.

Be as specific and detailed as possible

MEMBERS

Attorney Brenda Doherty, Chairperson
 Maria Perez
 Daniel Morrissey
 Henry Nowick
 Jose Gonzalez
 Walter Gould

City of Springfield, Massachusetts
Zoning Board of Appeals
70 Tapley Street, Springfield, MA 01104
(413)787-6031/(413)750-2434



Date _____

APPLICATION TO BOARD OF APPEALS
(11 Copies with 11 Original Signatures)

Applicant _____
 Address _____
 City/Town _____
 Telephone Number _____

Legal Owner of
 Property _____
 Address _____
 City/Town _____
 Telephone _____

Application is hereby made for a variation from the requirements from the Springfield Zoning Ordinance,
 Article _____ Section _____ Paragraph _____.

The premises affected is located at _____, shown on city
 plot plan # _____, and recorded in Book _____ Page _____ at the Hampden County
 Registry of Deeds.

Description of PROPOSED or EXISTING Building or Structure

- 1.) Size of building: Length _____ feet, Width _____ feet deep,
 Height _____ Stories _____ feet.
- 2.) Occupancy or use (of each floor) _____
- 3.) Building Zoning District _____
- 4.) Date of Erection _____
- 5.) Type of Construction (check one, if applicable to this variance) I ___ II ___ III ___ V ___ VI ___
- 6.) Has there been a previous variance on this premises? _____
- 7.) Description of proposed work or use _____

- 8.) The principle reasons upon which I base this application are as follows _____
Please see attached

- 9.) Are all taxes and municipal charges currently due on the property, paid in full? _____yes _____no
 (If not, they must be paid by the hearing)
 The undersigned certifies that this information is accurate and complete.

 Original Signature of Applicant or
 Authorized Agent